

26-1-1. Title cited as "Utah Health Code."

This title shall be known and may be cited as the "Utah Health Code."

Enacted by Chapter 126, 1981 General Session

26-1-2. Definitions.

Subject to additional definitions contained in the chapters of this title which are applicable to specific chapters, as used in this title:

- (1) "Council" means the Utah Health Advisory Council.
- (2) "Department" means the Department of Health created in Section 26-1-4.
- (3) "Executive director" means the executive director of the department appointed pursuant to Section 26-1-8.
- (4) "Public health authority" means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or contract with such an agency, that is responsible for public health matters as part of its official mandate.

Amended by Chapter 391, 2012 General Session

26-1-3. Purpose of title -- Consolidation of health functions into single state agency.

The purpose of this title is to consolidate into a single agency of state government certain health functions exercised by the Department of Human Services including those performed by the Division of Health, the Board of Health, the Office of Health Care Financing and Standards, the State Health Planning Development Agency, the Nursing Home Advisory Council, the Health Facilities Council, and similar affiliated agencies, in order to more efficiently and effectively manage health programs that are the responsibility of the state, to establish a health policy for the state and to promote health, the quality of life, and contain costs in the health field.

Amended by Chapter 112, 1991 General Session

26-1-4. Department of Health created -- Policymaking responsibilities -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants -- Committee responsibilities.

(1) There is created the Department of Health, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Health, the Board of Health, the State Health Planning Development Agency, and the Office of Health Care Financing. Unless otherwise specifically provided, when reference is made in any statute of this state to the Board of Health, the Division of Health, the State Health Planning Development Agency, or the Office of Health Care Financing, it refers to the department. The department shall assume all of the policymaking functions, powers, rights, duties, and responsibilities over the division, agency, and office previously vested in the Department of Human Services and its executive director.

(2) In establishing public health policy, the department shall consult with the

local health departments established under Title 26A, Chapter 1, Local Health Departments.

(3) (a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iii).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

(i) the executive director, or the executive director's designee;

(ii) two representatives of the department, appointed by the executive director;

and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate:

(A) the allocation of public health resources between the department and local health departments; and

(B) policies that affect local health departments;

(ii) consider policy changes proposed by the department or local health departments;

(iii) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

(iv) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

(d) (i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant pursuant to a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by:

(A) a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i); or

(B) if two-thirds of the committee cannot agree on the goals and budget, the

chair of the health advisory council, after consultation with the committee in a manner that the committee determines.

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

Amended by Chapter 167, 2013 General Session

26-1-4.1. Department procedures -- Adjudicative proceedings.

The Department of Health shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

26-1-5. Rules of department.

(1) Except in areas regulated by statutory committees created by this title, the department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(2) Rules shall have the force and effect of law and may deal with matters which materially affect the security of health or the preservation and improvement of public health in the state, and any matters as to which jurisdiction is conferred upon the department by this title.

(3) Every rule adopted by the department pursuant to this section, or a committee established under Section 26-1-7 or 26-1-7.5, shall be subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act and shall become effective at the time and in the manner provided in that act.

(4) If, at the next general session of the Legislature following the filing of a rule with the legislative research director, the Legislature passes a bill disapproving such rule, the rule shall be null and void.

(5) The department or a committee created under Section 26-1-7 or 26-1-7.5, may not adopt a rule identical to a rule disapproved under Subsection (4) of this section, before the beginning of the next general session of the Legislature following the general session at which the rule was disapproved.

Amended by Chapter 297, 2011 General Session

26-1-6. Fee schedule adopted by department.

(1) The department may adopt a schedule of fees that may be assessed for services rendered by the department, provided that the fees are:

(a) reasonable and fair; and

(b) submitted to the Legislature as part of the department's annual appropriations request.

(2) When the department submits a fee schedule to the Legislature, the Legislature, in accordance with Section 63J-1-504, may:

(a) approve the fee;

(b) increase or decrease and approve the fee; or

- (c) reject any fee submitted to it.
- (3) Fees approved by the Legislature pursuant to this section shall be paid into the state treasury in accordance with Section 63J-1-104.

Amended by Chapter 183, 2009 General Session

26-1-7. Committees within department.

- (1) There are created within the department the following committees:
 - (a) Health Facility Committee;
 - (b) State Emergency Medical Services Committee;
 - (c) Health Data Committee;
 - (d) Utah Health Care Workforce Financial Assistance Program Advisory Committee;
 - (e) Residential Child Care Licensing Advisory Committee;
 - (f) Child Care Center Licensing Committee; and
 - (g) Primary Care Grant Committee.
- (2) The department shall:
 - (a) review all committees and advisory groups in existence before July 1, 2003 that are not listed in Subsection (1) or Section 26-1-7.5, and not required by state or federal law; and
 - (b) beginning no later than July 1, 2003:
 - (i) consolidate those advisory groups and committees with other committees or advisory groups as appropriate to create greater efficiencies and budgetary savings for the department; and
 - (ii) create in writing, time-limited and subject-limited duties for the advisory groups or committees as necessary to carry out the responsibilities of the department.

Amended by Chapter 322, 2014 General Session

Amended by Chapter 384, 2014 General Session

26-1-7.1. Committee procedures -- Adjudicative proceedings.

All committees created by Section 26-1-7 shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

26-1-7.5. Health advisory council.

- (1) (a) There is created the Utah Health Advisory Council, comprised of nine persons appointed by the governor.
- (b) The governor shall ensure that:
 - (i) members of the council:
 - (A) broadly represent the public interest;
 - (B) have an interest in or knowledge of public health, environmental health, health planning, health care financing, or health care delivery systems; and
 - (C) include health professionals;

- (ii) the majority of the membership are nonhealth professionals;
- (iii) no more than five persons are from the same political party; and
- (iv) geography, sex, and ethnicity balance are considered when selecting the members.

(2) (a) Except as required by Subsection (2)(b), members of the council shall be appointed to four-year terms.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(c) Terms of office for subsequent appointments shall commence on July 1 of the year in which the appointment occurs.

(3) (a) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(b) No person shall be appointed to the council for more than two consecutive terms.

(c) The chair of the council shall be appointed by the governor from the membership of the council.

(4) The council shall meet at least quarterly or more frequently as determined necessary by the chair. A quorum for conducting business shall consist of four members of the council.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The council shall be empowered to advise the department on any subject deemed to be appropriate by the council except that the council may not become involved in administrative matters. The council shall also advise the department as requested by the executive director.

(7) The executive director shall ensure that the council has adequate staff support and shall provide any available information requested by the council necessary for their deliberations. The council shall observe confidential requirements placed on the department in the use of such information.

Amended by Chapter 297, 2011 General Session

26-1-8. Executive director -- Appointment -- Compensation.

The chief administrative officer of the department is the executive director who shall be appointed by the governor with the consent of the Senate. The executive director shall serve at the pleasure of the governor. The governor shall establish the executive director's salary within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Amended by Chapter 176, 2002 General Session

26-1-9. Executive director -- Qualifications.

(1) Except as provided in Subsection (2), the executive director shall be a physician who is a graduate of a regularly chartered and legally constituted medical school, licensed to practice medicine and surgery in all branches in the state, who has successfully completed:

(a) a master's degree of public health from an accredited school of public health or from an accredited program of public health and has at least three years professional full-time experience in a senior level administrative capacity; or

(b) at least one year's graduate work in an accredited school of public health and has at least five years professional full-time experience, of which at least three years have been in public health in a senior level administrative capacity.

(2) If the executive director is not a physician under Subsection (1), the executive director shall:

(a) (i) have successfully completed at least a master's degree of public health or public administration from an accredited school of public health or from an accredited program of public health or public administration; and

(ii) have at least five years of professional full-time experience, of which at least two years have been in public health in a senior level administrative capacity; or

(b) have at least seven years of professional full-time experience in public health programs, of which at least five years have been in a senior level administrative capacity.

(3) An executive director shall be thoroughly informed and experienced in all aspects of public health work.

(4) If the executive director is not a physician, the deputy director of the department shall be a physician who has successfully completed at least one year's graduate work in an accredited school of public health or an accredited program of public health.

Amended by Chapter 141, 2011 General Session

26-1-10. Executive director -- Enforcement powers.

The executive director is empowered to issue orders to enforce state laws and rules established by the department except where the enforcement power is given to a committee created pursuant to Section 26-1-7.

Enacted by Chapter 126, 1981 General Session

26-1-11. Executive director -- Power to amend, modify, or rescind committee rules.

The executive director pursuant to the requirements of the Administrative Rulemaking Act may amend, modify, or rescind any rule of any committee created pursuant to Section 26-1-7 if the rule creates a clear present hazard or clear potential hazard to the public health except that the executive director may not act until after discussion with the appropriate committee.

Amended by Chapter 297, 2011 General Session

26-1-12. Executive director -- Power to order abatement of public health hazard.

If the executive director finds that a condition of filth, sanitation, or other health hazard exists which creates a clear present hazard to the public health and which requires immediate action to protect human health or safety, the executive director with the concurrence of the governor may order persons causing or contributing to the condition to reduce, discontinue, or ameliorate it to the extent that the public health hazard is eliminated.

Amended by Chapter 112, 1991 General Session

26-1-13. Executive director -- Power to organize department.

The executive director shall organize the department into divisions and offices and shall structure such organization to promote the efficiency and effectiveness of the operations of the department.

Enacted by Chapter 126, 1981 General Session

26-1-14. Executive director -- Appointment, removal, and compensation of division directors.

The executive director shall have administrative jurisdiction over the directors of the divisions and offices established under Section 26-1-13. Each director shall be appointed by the executive director and may be removed at the will of the executive director. The directors shall be compensated in an amount fixed by the executive director. The division directors shall be experienced in administration and have knowledge and be familiar with their areas of responsibility.

Amended by Chapter 169, 1988 General Session

26-1-15. Executive director -- Power to accept federal aid.

The executive director with the approval of the governor may accept, in behalf of the state, and bind the state by such acceptance, any executive or legislative provisions promulgated or enacted by the federal government or any agency thereof, whereby the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any fund or service, advanced, offered, or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department. All applications for federal grants or assistance in support of any department program shall be approved by the executive director. If any executive or legislative provisions of the federal government shall require, as a condition to participation by the state in any fund, property, or service, the executive director, with the governor's approval shall expend whatever funds are necessary out of money appropriated by the legislature for use and disbursement by the department.

Enacted by Chapter 126, 1981 General Session

26-1-16. Executive director -- Power to accept funds and gifts.

The executive director may accept and receive such other funds and gifts as may be made available from private and public groups for the purposes of promoting and protecting the public health or for the provision of health services to the people of the state and shall expend the same as appropriated by the legislature.

Enacted by Chapter 126, 1981 General Session

26-1-17. Executive director -- Power to prescribe rules for administration and government of department.

The executive director shall prescribe rules not inconsistent with law for the administration and government of the department, the conduct of its employees and the custody, use and preservation of the records, papers, books, documents, and property of the department.

Enacted by Chapter 126, 1981 General Session

26-1-17.5. Confidential records.

(1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section 63G-2-310.

(2) In addition to those persons granted access to records described in Subsection 63G-2-302(1)(b), immunization records may be shared among schools, school districts, and local and state health departments and the state Department of Human Services as necessary to assure compliance with Section 53A-11-301 and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Amended by Chapter 382, 2008 General Session

26-1-18. Authority of department generally.

The department is the health, health planning, and medical assistance authority of the state and is the sole state agency for administration of federally assisted state programs or plans for public health, health planning, maternal and child health, services for children with a disability, and medical assistance.

Amended by Chapter 366, 2011 General Session

26-1-20. Advisory committees created by department.

The department may create such advisory committees as it deems necessary to assist in carrying out the provisions of this title.

Enacted by Chapter 126, 1981 General Session

26-1-21. Disposal of property by department.

(1) The department may dispose of any personal property owned by it or any of the entities created under Section 26-1-13, in the manner provided in Title 63A, Chapter 2, Part 4, Surplus Property Service.

(2) The department may dispose of any real property owned by it or any of the entities created under Section 26-1-13, in the manner provided in Title 65A, Chapter 4, Acquisition and Disposition of Land by State Agencies.

Amended by Chapter 207, 2011 General Session

26-1-22. Budget preparation and submission to governor.

The department shall prepare and submit to the governor a proposed budget to be included in the budget submitted by the governor to the legislature for the fiscal year following the convening of the legislature.

Enacted by Chapter 126, 1981 General Session

26-1-23. Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Exceptions for written findings.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by rule reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.

(2) Except as provided in Subsection (3), or where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) The local health department may make standards and regulations more stringent than corresponding federal law, state statute, or state administrative rules, only if the local health department makes a written finding after public comment and hearing and based on evidence in the record, that corresponding federal laws, state statutes, or state administrative rules are not adequate to protect public health of the state.

(b) The findings shall address the public health information and studies contained in the record, which form the basis for the local health department's conclusion.

(4) Nothing in the provisions of Subsection (2) or (3), shall limit the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

(a) emergency rules made in accordance with Section 63G-3-304; or

(b) items not regulated under federal law, state statute, or state administrative rule.

Amended by Chapter 307, 2012 General Session

26-1-23.5. Rules for sale of drugs, cosmetics, and medical devices.

The department shall establish and enforce rules for the sale or distribution of human drugs, cosmetics, and medical devices. The rules adopted under this section shall be no more stringent than those established by federal law.

Renumbered and Amended by Chapter 112, 1991 General Session

26-1-24. Hearings conducted by department.

The department may hold hearings, administer oaths, subpoena witnesses, and take testimony in matters relating to the exercise and performance of the powers and duties vested in or imposed upon the department. The department may, at its sole discretion, contract with any other agency or department of the state to conduct hearings in the name of the department.

Enacted by Chapter 126, 1981 General Session

26-1-25. Principal and branch offices of department.

The principal office of the department shall be in Salt Lake County. The department may establish branch offices at other places in the state to furnish comprehensive and effective health programs and to render additional assistance to local health officials. This section does not limit the powers of local health agencies.

Amended by Chapter 297, 2011 General Session

26-1-26. Director of community health nursing appointed by executive director.

There shall be within the department a director of community health nursing appointed by the executive director who shall develop, implement, monitor, and evaluate community health nursing standards and services and participate in the formulation of policies for administration of health services.

Enacted by Chapter 126, 1981 General Session

26-1-30. Powers and duties of department.

(1) The department shall:

(a) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered; and

(b) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups.

(2) In addition to all other powers and duties of the department, it shall have and exercise the following powers and duties:

- (a) promote and protect the health and wellness of the people within the state;
- (b) establish, maintain, and enforce rules necessary or desirable to carry out the provisions and purposes of this title to promote and protect the public health or to prevent disease and illness;
- (c) investigate and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health;
- (d) provide for the detection, reporting, prevention, and control of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;
- (e) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;
- (f) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;
- (g) establish and operate programs necessary or desirable for the promotion or protection of the public health and the control of disease or which may be necessary to ameliorate the major causes of injury, sickness, death, and disability in the state, except that the programs may not be established if adequate programs exist in the private sector;
- (h) establish, maintain, and enforce isolation and quarantine, and for this purpose only, exercise physical control over property and individuals as the department finds necessary for the protection of the public health;
- (i) close theaters, schools, and other public places and forbid gatherings of people when necessary to protect the public health;
- (j) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;
- (k) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;
- (l) establish laboratory services necessary to support public health programs and medical services in the state;
- (m) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;
- (n) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;
- (o) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;
- (p) investigate the causes of maternal and infant mortality;
- (q) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for

the presence and concentration of alcohol;

(r) provide the Commissioner of Public Safety with monthly statistics reflecting the results of the examinations provided for in Subsection (2)(q) and provide safeguards so that information derived from the examinations is not used for a purpose other than the compilation of statistics authorized in this Subsection (2)(r);

(s) establish qualifications for individuals permitted to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), or 72-10-502(5)(a)(vi), and to issue permits to individuals it finds qualified, which permits may be terminated or revoked by the department;

(t) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(u) adopt rules and enforce minimum sanitary standards for the operation and maintenance of:

- (i) orphanages;
- (ii) boarding homes;
- (iii) summer camps for children;
- (iv) lodging houses;
- (v) hotels;
- (vi) restaurants and all other places where food is handled for commercial purposes, sold, or served to the public;
- (vii) tourist and trailer camps;
- (viii) service stations;
- (ix) public conveyances and stations;
- (x) public and private schools;
- (xi) factories;
- (xii) private sanatoria;
- (xiii) barber shops;
- (xiv) beauty shops;
- (xv) physician offices;
- (xvi) dentist offices;
- (xvii) workshops;
- (xviii) industrial, labor, or construction camps;
- (xix) recreational resorts and camps;
- (xx) swimming pools, public baths, and bathing beaches;
- (xxi) state, county, or municipal institutions, including hospitals and other buildings, centers, and places used for public gatherings; and
- (xxii) any other facilities in public buildings or on public grounds;
- (v) conduct health planning for the state;
- (w) monitor the costs of health care in the state and foster price competition in the health care delivery system;
- (x) adopt rules for the licensure of health facilities within the state pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;
- (y) license the provision of child care;
- (z) accept contributions to and administer the funds contained in the Organ

Donation Contribution Fund created in Section 26-18b-101;

(aa) serve as the collecting agent, on behalf of the state, for the nursing care facility assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act, and adopt rules for the enforcement and administration of the nursing facility assessment consistent with the provisions of Title 26, Chapter 35a; and

(bb) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

Amended by Chapter 24, 2012 General Session

Amended by Chapter 267, 2012 General Session

26-1-30.5. Duty to establish pilot program for monitoring quality in health care.

(1) (a) Beginning July 1, 2010, the department shall develop a voluntary demonstration project to promote and monitor early intervention and resolution of unanticipated outcomes from medical care received by a patient.

(b) Implementation and execution of the demonstration project is contingent upon the amendment of a rule of evidence to protect the statements, affirmations, gestures, or conduct described in Section 78B-3-422.

(c) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which establish:

(i) the principles upon which the demonstration project shall be based; and

(ii) the method for implementation and evaluation of an open and honest dialogue between a health care provider and a patient, and the patient's representative, after an unanticipated event resulting from medical care provided to the patient.

(2) The demonstration project shall include at least the following:

(a) a collaborative, public-private effort to:

(i) avoid expensive and acrimonious litigation as a result of an unanticipated medical outcome; and

(ii) replace litigation with open and honest dialogue about issues raised in the course of a patient's medical care which resulted in the unanticipated outcome;

(b) a process for evaluating the effectiveness of the demonstration project in:

(i) preventing litigation of medical malpractice claims; and

(ii) providing appropriate and timely resolution of medical malpractice claims;

(c) a report to the Legislature's Judiciary, Law Enforcement, and Criminal Justice Interim Committee no later than November 30, 2012, which shall include the results of the demonstration project.

Amended by Chapter 344, 2010 General Session

26-1-32. Severability of code provisions.

If any provision of this code or the application of any such provision to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this code which can be given effect without the invalid provision or application, and to this end the provisions of this code are declared to be severable.

Amended by Chapter 297, 2011 General Session

26-1-33. Individual rights protected.

Nothing in this title shall prohibit an individual from choosing the diet, therapy, or mode of treatment to be administered to an individual or an individual's family.

Enacted by Chapter 126, 1981 General Session

26-1-34. Restricted account created to fund drug testing for law enforcement agencies.

(1) There is created within the General Fund a restricted account known as the State Laboratory Drug Testing Account.

(2) The account consists of a specified portion of fees generated under Subsection 53-3-106(5) from the reinstatement of certain licenses, which shall be deposited in this account.

(3) The Department of Health shall use funds in this account solely for the costs of performing drug and alcohol analysis tests for state and local law enforcement agencies, and may not assess any charge or fee to the law enforcement agencies for whom the analysis tests are performed.

Enacted by Chapter 247, 1998 General Session

26-1-35. Content and form of certificates and reports.

(1) Certificates, certifications, forms, reports, other documents and records, and the form of communication between persons required by this title shall be prepared in the form prescribed by department rule.

(2) Certificates, certifications, forms, reports, or other documents and records, and communications between persons required by this title may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

Enacted by Chapter 86, 2000 General Session

26-1-36. Duty to establish program to reduce deaths and other harm from prescription opiates used for chronic noncancer pain.

(1) As used in this section, "opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(2) In addition to the duties listed in Section 26-1-30, the department shall develop and implement a two-year program in coordination with the Division of Professional Licensing, the Utah Labor Commission, and the Utah attorney general, to:

(a) investigate the causes of and risk factors for death and nonfatal complications of prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled Substance Database created in Section 58-37f-201;

(b) study the risks, warning signs, and solutions to the risks associated with prescription opiate medications for chronic pain, including risks and prevention of misuse and diversion of those medications;

(c) provide education to health care providers, patients, insurers, and the general public on the appropriate management of chronic pain, including the effective use of medical treatment and quality care guidelines that are scientifically based and peer reviewed; and

(d) educate the public regarding:

(i) the purpose of the Controlled Substance Database established in Section 58-37f-201; and

(ii) the requirement that a person's name and prescription information be recorded on the database when the person fills a prescription for a schedule II, III, IV, or V controlled substance.

Amended by Chapter 43, 2013 General Session

Amended by Chapter 167, 2013 General Session

26-1-37. Duty to establish standards for the electronic exchange of clinical health information.

(1) For purposes of this section:

(a) "Affiliate" means an organization that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another organization.

(b) "Clinical health information" shall be defined by the department by administrative rule adopted in accordance with Subsection (2).

(c) "Electronic exchange":

(i) includes:

(A) the electronic transmission of clinical health data via Internet or extranet; and

(B) physically moving clinical health information from one location to another using magnetic tape, disk, or compact disc media; and

(ii) does not include exchange of information by telephone or fax.

(d) "Health care provider" means a licensing classification that is either:

(i) licensed under Title 58, Occupations and Professions, to provide health care;

or

(ii) licensed under Chapter 21, Health Care Facility Licensing and Inspection

Act.

(e) "Health care system" shall include:

(i) affiliated health care providers;

(ii) affiliated third party payers; and

(iii) other arrangement between organizations or providers as described by the department by administrative rule.

(f) "Qualified network" means an entity that:

(i) is a non-profit organization;

(ii) is accredited by the Electronic Healthcare Network Accreditation Commission, or another national accrediting organization recognized by the department; and

(iii) performs the electronic exchange of clinical health information among multiple health care providers not under common control, multiple third party payers not under common control, the department, and local health departments.

(g) "Third party payer" means:

(i) all insurers offering health insurance who are subject to Section 31A-22-614.5; and

(ii) the state Medicaid program.

(2) (a) In addition to the duties listed in Section 26-1-30, the department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) define:

(A) "clinical health information" subject to this section; and

(B) "health system arrangements between providers or organizations" as described in Subsection (1)(e)(iii); and

(ii) adopt standards for the electronic exchange of clinical health information between health care providers and third party payers that are for treatment, payment, health care operations, or public health reporting, as provided for in 45 C.F.R. Parts 160, 162, and 164, Health Insurance Reform: Security Standards.

(b) The department shall coordinate its rule making authority under the provisions of this section with the rule making authority of the Insurance Department under Section 31A-22-614.5. The department shall establish procedures for developing the rules adopted under this section, which ensure that the Insurance Department is given the opportunity to comment on proposed rules.

(3) (a) Except as provided in Subsection (3)(e), a health care provider or third party payer in Utah is required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer elects to engage in an electronic exchange of clinical health information with another health care provider or third party payer.

(b) A health care provider or third party payer may disclose information to the department or a local health department, by electronic exchange of clinical health information, as permitted by Subsection 45 C.F.R. 164.512(b).

(c) When functioning in its capacity as a health care provider or payer, the department or a local health department may disclose clinical health information by electronic exchange to another health care provider or third party payer.

(d) An electronic exchange of clinical health information by a health care provider, a third party payer, the department, or a local health department is a disclosure for treatment, payment, or health care operations if it complies with Subsection (3)(a) or (c) and is for treatment, payment, or health care operations, as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

(e) A health care provider or third party payer is not required to use the standards adopted by the department under the provisions of Subsection (2) if the health care provider or third party payer engage in the electronic exchange of clinical health information within a particular health care system.

(4) Nothing in this section shall limit the number of networks eligible to engage in the electronic data interchange of clinical health information using the standards adopted by the department under Subsection (2)(a)(ii).

(5) The department, a local health department, a health care provider, a third

party payer, or a qualified network is not subject to civil liability for a disclosure of clinical health information if the disclosure is in accordance both with Subsection (3)(a) and with Subsection (3)(b), (3)(c), or (3)(d).

(6) Within a qualified network, information generated or disclosed in the electronic exchange of clinical health information is not subject to discovery, use, or receipt in evidence in any legal proceeding of any kind or character.

Amended by Chapter 167, 2013 General Session

26-1-38. Local health emergency assistance program.

(1) As used in this section:

(a) "Local health department" has the same meaning as defined in Section 26A-1-102.

(b) "Local health emergency" means an unusual event or series of events causing or resulting in a substantial risk or substantial potential risk to the health of a significant portion of the population within the boundary of a local health department.

(c) "Program" means the local health emergency assistance program that the department is required to establish under this section.

(d) "Program fund" means money that the Legislature appropriates to the department for use in the program and other money otherwise made available for use in the program.

(2) The department shall establish, to the extent of funds appropriated by the Legislature or otherwise made available to the program fund, a local health emergency assistance program.

(3) Under the program, the department shall:

(a) provide a method for a local health department to seek reimbursement from the program fund for local health department expenses incurred in responding to a local health emergency;

(b) require matching funds from any local health department seeking reimbursement from the program fund;

(c) establish a method for apportioning money in the program fund to multiple local health departments when the total amount of concurrent requests for reimbursement by multiple local health departments exceeds the balance in the program fund; and

(d) establish by rule other provisions that the department considers necessary or advisable to implement the program.

(4) (a) (i) Subject to Subsection (4)(a)(ii), the department shall use money in the program fund exclusively for purposes of the program.

(ii) The department may use money in the program fund to cover its costs of administering the program.

(b) Money that the Legislature appropriates to the program fund is nonlapsing.

(c) Any interest earned on money in the program fund shall be deposited to the General Fund.

Amended by Chapter 167, 2013 General Session